

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

REBECCA KLUG,

Plaintiff,

v.

**Civil Action No. 3:18-cv-00711
Judge Robert C. Chambers**

**MARSHALL UNIVERSITY
BOARD OF GOVERNORS,
and FARID B. MOZAFFARI, an individual,**

Defendants.

PLAINTIFF'S THIRD MOTION TO COMPEL DISCOVERY

COMES NOW Plaintiff, Rebecca Klug, by counsel, and respectfully moves the Court to compel Defendant Marshall University Board of Governors ("BOG") to fully and completely answer and respond to Plaintiff's Third Set of Interrogatories and Request for Production of Documents and Things, and First Set of Request for Admissions. In support of her motion, Plaintiff states as follows:

1. On or about November 20, 2019, Plaintiff served her Third Set of Interrogatories and Request for Production of Documents and Things, and First Set of Request for Admissions upon Defendant BOG via facsimile. (Ex. 1.)
2. Pursuant to the Federal Rules of Civil Procedure, Defendant BOG's answers and responses to Plaintiff's written discovery were due by December 20, 2019.
3. Defendant BOG served its answers and responses on December 20, 2019. (Ex. 2.)

4. After carefully reviewing Defendant BOG's answers and responses, Plaintiff concluded that several responses were inadequate, incomplete and/or otherwise insufficient.

5. In an effort to resolve the discovery disputes in an amicable and conciliatory manner, on January 14, 2020, Plaintiff's counsel wrote Defendant BOG's counsel requesting that BOG reconsider and inform her of his client's intentions regarding the items detailed in her letter "no later than the close of business on Friday, January 17, 2020." (Ex. 3.)

6. Plaintiff's counsel's three-page letter explained in detail Plaintiff's specific concerns over each inadequate, incomplete, or insufficient response. (*Id.*)

7. Rather than restate here each disputed discovery item, Plaintiff simply incorporates herein by reference her counsel's letter of January 14, 2020.

8. Unfortunately, Defendant BOG's counsel did not respond or request more time to respond.

9. In this regard, Interrogatory Numbers 1 and 2, Request for Production Numbers 1, 2, 3, 6, 7, 10, 11, 12, and 13, and Request for Admission Numbers 2, 3, and 5 remain in dispute.

10. Pursuant to the federal rules, Plaintiff is required to file a motion to compel within thirty (30) days of the date the discovery answers and responses were served, if the discovery disputes cannot be resolved.

11. In order to protect her interests, Plaintiff had no choice but to file the instant motion to secure Defendant's compliance with its discovery requirements.

12. Plaintiff also certifies that she has attempted in good faith to obtain the requested information without Court action, but was left with no choice but to file the instant motion.

13. Plaintiff further submits such other grounds as may be assigned at a hearing to be conducted upon her motion.

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order compelling Defendant BOG to fully and completely respond to and comply with Plaintiff's Third Set of Interrogatory Numbers 1 and 2, and Request for Production Numbers 1, 2, 3, 6, 7,10, 11, 12, and 13, and First Set of Request for Admission Numbers 2, 3, and 5.

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, Plaintiff also requests that this Court enter an Order requiring Defendant BOG to pay all fees and costs associated with Plaintiff's: (a) prosecution of this motion; and (b) efforts to obtain full and complete responses to Plaintiff's written discovery. Plaintiff seeks such further legal and/or equitable relief as may be appropriate.

Respectfully submitted,

REBECCA KLUG

Plaintiff

By Counsel

s/ Kristina Thomas Whiteaker

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CERTIFICATE OF SERVICE

I, Kristina Thomas Whiteaker, counsel for Plaintiff, do hereby certify that I have this 21st day of January, 2020, electronically filed with the Clerk of the Court the foregoing *Plaintiff's Third Motion to Compel Discovery* using the CM/ECF system, which will send a copy of this document, as well as notification of such filing, to the following:

Perry W. Oxley, Esq./L.R. Sammons, III, Esq.
Eric D. Salyers, Esq./David E. Rich, Esq.
Oxley Rich Sammons
Post Office Box 1704
Huntington, WV 25718

s/ Kristina Thomas Whiteaker

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